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09/965,248	09/28/2001	Susan K. Semancik	GSC 14,409-1	3035

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NASA GODDARD SPACE FLIGHT CENTER  
OFFICE OF PATENT COUNSEL  
MAIL CODE 503  
GREENBELT, MD 20771

EXAMINER

DUNCAN, MARC M

ART UNIT	PAPER NUMBER
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2113

DATE MAILED: 06/25/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

**Application No.**

09/965,248

**Applicant(s)**

SEMANCIK ET AL.

**Examiner**

Marc M Duncan

**Art Unit**

2113

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 28 September 2001.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-24 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 24 is/are allowed.
- 6) ☒ Claim(s) 1-8 and 10-23 is/are rejected.
- 7) ☒ Claim(s) 9 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 28 September 2001 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date 4.
- ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: \_\_\_\_\_.

**DETAILED ACTION**

***Status of the Claims***

Claims 1, 2, 4, 5 and 7 are rejected under 35 U.S.C. 102(b) as being anticipated by Miller.

Claims 8, 10, 12, 13, 15, 16, 17, 19, 20, 21 and 23 are rejected under 35 U.S.C. 103(a) as being unpatentable over Miller in view of Grayson.

Claims 3 and 6 are rejected under 35 U.S.C. 103(a) as being unpatentable over Miller in view of Windows NT.

Claims 3, 6, 11, 14, 18 and 22 are rejected under 35 U.S.C. 103(a) as being unpatentable over Miller and Grayson and further in view of Windows NT.

Claim 9 is objected to.

Claim 24 is allowed.

***Information Disclosure Statement***

The information disclosure statement filed 1/14/02 fails to comply with 37 CFR 1.98(a)(2), which requires a legible copy of each U.S. and foreign patent; each publication or that portion which caused it to be listed; and all other information or that portion which caused it to be listed. It has been placed in the application file, but the information referred to therein has not been considered. Only references initialed by the examiner have been considered.

***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1, 2, 4, 5 and 7 are rejected under 35 U.S.C. 102(b) as being anticipated by Miller.

Regarding claim 1:

Miller teaches sending a file to a receiver in col. 2 lines 30-32.

Miller teaches determining whether the file has been successfully transferred to the receiver in col. 2 lines 52-55.

Miller teaches, if the file has not been successfully transferred to the receiver, attempting to send the file to the receiver up to a preset number of times in Fig. 1, col. 2 lines 57-60 and col. 2 lines 65-67.

Regarding claim 2:

Miller teaches sending a file delivery notification if the file is successfully sent to the receiver in col. 10 lines 52-55.

Regarding claim 4:

Miller teaches wherein the file delivery notification is sent to the receiver via email or World Wide Web (WWW) in col. 4 lines 35-36.

Regarding claim 5:

Miller teaches sending a failure notification to the receiver if attempting to send the file up to the preset number of times fails in col. 10 lines 30-33.

Regarding claim 7:

Miller teaches wherein the failure notification is sent to the receiver via email or World Wide Web (WWW) in col. 4 lines 35-36.

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

Claims 3 and 6 are rejected under 35 U.S.C. 103(a) as being unpatentable over Miller in view of Windows NT download dialog box.

Regarding claim 3:

The teachings of Miller are outlined above.

Miller does not explicitly teach a file delivery notice comprising the name of the file, the size of the file, the origin of the file and the location of the file. Miller does, however, teach a file deliver notification providing the parameters associated with the transfer of the file in col. 5 lines 30-32 and col. 10 lines 53-55.

Windows NT explicitly teaches a file delivery notice comprising the name of the file, the size of the file, the origin of the file and the location of the file in the download dialog box (see Figure).

It would have been obvious to one of ordinary skill in the art at the time of invention to combine the download dialog box information with the parameters taught by Miller.

One of ordinary skill in the art at the time of invention would have been motivated to combine the teachings because Miller teaches sending parameters associated with the transfer of a file. The download dialog box provides such parameters, allowing the receiver of the file to be informed of the pertinent information necessary to properly access the file once it is transferred.

Regarding claim 6:

The teachings of Miller are outlined above.

Miller does not explicitly teach a failure notification comprising the name of the file, the size of the file and the location of the file. Miller does, however, teach an abort message that allows the receiver to save the context so that transmission can be resumed in col. 10 lines 35-37.

Windows NT explicitly teaches a notice comprising the name of the file, the size of the file and the location of the file in the download dialog box (see Figure).

It would have been obvious to one of ordinary skill in the art at the time of invention to combine the dialog box information with the failure notification of Miller.

One of ordinary skill in the art at the time of invention would have been motivated to combine the teachings because Miller teaches that the context of the transmission can be saved in order to resume the transmission at a later time. The context of the transmission that is saved must necessarily include the information provided by the dialog box, specifically the name of the file, the size of the file and the location of the file.

Claims 8, 10, 12, 13, 15, 16, 17, 19, 20, 21 and 23 are rejected under 35 U.S.C. 103(a) as being unpatentable over Miller in view of Grayson.

Regarding claim 8:

The teachings of Miller are outlined above.

Miller does not explicitly teach sending the file to a backup receiving location if attempting to send the file to the receiver up to the preset number of times fails and the backup receiving location exists. Miller does, however, teach the server taking further action if a client has not received the file correctly by the time of the maximum pass in col. 7 lines 30-34.

Grayson teaches sending the file to a backup receiving location if attempting to send the file to the receiver up to the preset number of times fails and the backup receiving location exists in col. 2 lines 12-20. The use of a further node address to re-route the packet is equivalent to sending the file to a backup receiving location.

It would have been obvious to one of ordinary skill in the art at the time of invention to combine the backup receiving location of Grayson with the further action step of Miller.

One of ordinary skill in the art at the time of invention would have been motivated to combine the teachings because Grayson teaches that the use of alternative routes minimizes the effects of short-term path interference or blockage in col. 2 lines 21-24. This meets the need for a reliable transmission system as expressed by Miller.

Regarding claim 10:

Miller teaches sending a file delivery notification if the file is successfully sent to the receiver in col. 10 lines 52-55.

Regarding claim 12:

Miller teaches wherein the file delivery notification is sent to the receiver via email or World Wide Web (WWW) in col. 4 lines 35-36.

Regarding claim 13:

Miller teaches, if the file is not deliver to the backup receiving location, sending a failure notification to the receiver in col. 10 lines 30-33.

Regarding claim 15:

Miller teaches wherein the failure notification is sent to the receiver via email or World Wide Web (WWW) in col. 4 lines 35-36.

Regarding claim 16:

The teachings of Miller are outlined above.

Miller does not explicitly teach sending the file to the next backup receiving location. Miller does, however, teach the server taking further action if a client has not received the file correctly by the time of the maximum pass in col. 7 lines 30-34.



Grayson teaches sending the file to the next backup receiving location in col. 2 lines 33-39.

It would have been obvious to one of ordinary skill in the art at the time of invention to combine the next backup receiving location of Grayson with the further action step of Miller.

One of ordinary skill in the art at the time of invention would have been motivated to combine the teachings because Grayson teaches that the use of alternative routes minimizes the effects of short-term path interference or blockage in col. 2 lines 21-24. This meets the need for a reliable transmission system as expressed by Miller.

Regarding claim 17:

Miller teaches sending a file delivery notification if the file is successfully sent to the receiver in col. 10 lines 52-55.

Regarding claim 19:

Miller teaches wherein the file delivery notification is sent to the receiver via email or World Wide Web (WWW) in col. 4 lines 35-36.

Regarding claim 20:

Grayson teaches continuing to perform the steps (a) to (c) until the file is successfully transferred to one of the next backup receiving locations in col. 2 lines 33-39.

Regarding claim 21:

Miller teaches, if the file is not delivered to any of the backup receiving locations, sending a failure notification to the receiver in col. 10 lines 30-33.

Regarding claim 23:

Miller teaches wherein the failure notification is sent to the receiver via email or World Wide Web (WWW) in col. 4 lines 35-36.

Claims 11, 14, 18 and 22 are rejected under 35 U.S.C. 103(a) as being unpatentable over Miller and Grayson as applied to claims 10, 13, 17 and 21 above, and further in view of Windows NT download dialog box.

Regarding claims 11 and 18:

The teachings of Miller and Grayson are outlined above.

Miller and Grayson do not explicitly teach a file delivery notice comprising the name of the file, the size of the file, the origin of the file and the location of the file. Miller does, however, teach a file deliver notification providing the parameters associated with the transfer of the file in col. 5 lines 30-32 and col. 10 lines 53-55.

Windows NT explicitly teaches a file delivery notice comprising the name of the file, the size of the file, the origin of the file and the location of the file in the download dialog box (see Figure).

It would have been obvious to one of ordinary skill in the art at the time of invention to combine the download dialog box information with the parameters taught by Miller.

One of ordinary skill in the art at the time of invention would have been motivated to combine the teachings because Miller teaches sending parameters associated with the transfer of a file. The download dialog box provides such parameters, allowing the

receiver of the file to be informed of the pertinent information necessary to properly access the file once it is transferred.

Regarding claims 14 and 22:

The teachings of Miller and Grayson are outlined above.

Miller and Grayson do not explicitly teach a failure notification comprising the name of the file, the size of the file and the location of the file. Miller does, however, teach an abort message that allows the receiver to save the context so that transmission can be resumed in col. 10 lines 35-37.

Windows NT explicitly teaches a notice comprising the name of the file, the size of the file and the location of the file in the download dialog box (see Figure).

It would have been obvious to one of ordinary skill in the art at the time of invention to combine the dialog box information with the failure notification of Miller and Grayson.

One of ordinary skill in the art at the time of invention would have been motivated to combine the teachings because Miller teaches that the context of the transmission can be saved in order to resume the transmission at a later time. The context of the transmission that is saved must necessarily include the information provided by the dialog box, specifically the name of the file, the size of the file and the location of the file.

***Allowable Subject Matter***

Claim 9 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

The following is a statement of reasons for the indication of allowable subject matter: Prior art was not found that explicitly teaches or fairly suggests the identification of the backup receiving location being predetermined by the receiver as outlined in claims 9 and 24.

### ***Conclusion***


The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The prior art not relied upon contains elements of the instant claims and/or represents a current state of the art.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Marc M Duncan whose telephone number is 703-305-4622. The examiner can normally be reached on M-T and TH-F 6:00-4:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Robert Beausoliel can be reached on 703-305-9713. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

md

  
ROBERT BEAUSOLIEL  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 2100